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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Notice of Temporary Closure and Temporary Restrictions of Specific Uses on Public Lands in Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closures and temporary restrictions.

SUMMARY: Notice is hereby given that under the authority of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office will implement and enforce a temporary closure and temporary restrictions to protect public safety and resources on public lands within and adjacent to the Burning Man event on the Black Rock Desert playa.

DATES: The temporary closures and temporary restrictions will be in effect from August 13, 2012 to September 17, 2012.

FOR FURTHER INFORMATION CONTACT: Gene Seidlitz, BLM District Manager, Winnemucca District, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445-2921, telephone: (775) 623-1500, e-mail: [gseidlitz@blm.gov](mailto:gseidlitz@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or

question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTAL INFORMATION: The temporary closure and temporary restrictions affect public lands at and adjacent to the Burning Man event permitted on the Black Rock Desert playa within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Pershing County, Nevada. The legal description of the affected public lands in the temporary public closure area is:

Mount Diablo Meridian, Nevada

Unsurveyed T. 33 N., R. 24 E.,

Sec. 1 portions lying northwesterly of the East Playa Road;

Sec. 2, portions lying northwesterly of East Playa Road;

Sec. 3;

Sec. 4, portion east of Washoe County Road 34;

Sec. 5;

Sec. 8, NE $\frac{1}{4}$ ;

Sec. 9, N $\frac{1}{2}$ ;

Sec. 10, N $\frac{1}{2}$ ;

Sec. 11, all that portion lying northwesterly of the East Playa Road and north of east west centerline.

Unsurveyed T. 33 $\frac{1}{2}$  N., R. 24 E.,

Secs. 25, 26, and 27;

Sec. 28, portion east of Washoe County Road 34;

Sec. 33, portions east of Washoe County Road 34;

Secs. 34, 35, and 36.

Unsurveyed T. 34 N., R. 24 E.,

Sec. 23, S $\frac{1}{2}$ ;

Sec. 24, S $\frac{1}{2}$ ;

Secs. 25 and 26;

Sec. 27, SE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 33, SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;

Secs. 34, 35, and 36.

T. 33 N., R. 25 E.,

Sec. 4, portions lying northwesterly of the East Playa Road.

Unsurveyed T. 34 N., R. 25 E.,

Sec. 16, S $\frac{1}{2}$ ;

Sec. 21;

Sec. 22, SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 27, W $\frac{1}{2}$ ;

Sec. 28;

Sec. 33, portions lying northwesterly of the East Playa Road

Sec. 34, portions lying northwest of the East Playa Road and westerly of north  
south centerline

The public closure area comprises 14,153 acres, more or less in Pershing County,  
Nevada.

The temporary closure is necessary for the period of time from August 13 through  
September 17 because of the event activities in the area, starting with fencing the site

perimeter, final setup, the actual event (August 26 through September 3), initial phases of cleanup, and concluding with final site cleanup.

The public closure area comprises about 13 percent of the Black Rock Desert playa. Public access to other areas of the playa will remain open and the rest of the playa outside the closure area will remain open to dispersed use.

Within the public closure area is the event area, which is defined as the portion of the public closure area (1) entirely contained within the event perimeter fence; (2) within 50 feet from the outside of the event perimeter fence; (3) within 25 feet from the outside of the event access road; and (4) the aircraft parking area outside the event perimeter fence.

The temporary closure and temporary restrictions are necessary to provide a safe environment for the participants of the Burning Man event and to members of the public visiting the Black Rock Desert, and to protect public land resources by addressing law enforcement and public safety concerns associated with the event. The Burning Man event is held on public lands administered by the BLM. It is expected to attract approximately 60,900 participants to a remote rural area, far from urban infrastructure and support, including law enforcement, public safety, transportation, and communication services. During the event, Black Rock City, the temporary city associated with the event, becomes the tenth-largest population area in Nevada. This event is authorized on public land under Special Recreation Permit #NVW03500-12-01.

The vast majority of Burning Man event participants do not cause any problems for the event organizers or the BLM. Actions by a few participants at previous events have resulted in law enforcement and public safety incidents similar to those observed in

urban areas of similar-size populations. Incidents that have required BLM law enforcement action in prior years include: aircraft crashes; motor vehicle accidents with injuries both within and outside the event (a temporary fence is installed around the event perimeter); fights; sexual assault; assault on law enforcement officers; reckless or threatening behavior; crimes against property; crowd control issues; issues associated with possession and use of alcoholic beverages; persons acting in a manner where they may pose a danger to themselves or to others; possession, use, and distribution of controlled substances; and increased use of public lands outside the event perimeter.

The Burning Man event takes place within Pershing County, a rural county with a small population and a small Sheriff's Department. Pershing County has limited ability to provide additional law enforcement officers to work at the event. The temporary closure and temporary restrictions are necessary to enable the BLM law enforcement personnel to provide for public safety and to protect the environment on public lands, as well as to support state and local law enforcement agencies with enforcement of existing laws.

Use of the playa by up to 60,900 participants creates potential impacts to public resources associated with disposal of wastes and litter. Implementation of the temporary restrictions will increase interaction with and education of users by the BLM law enforcement and educational staff which will indirectly increase appreciation and protection of the public resources.

A temporary closure and temporary restriction order, under the authority of 43 CFR 8364.1, is used because it is more appropriate than establishing supplementary rules for a single event. A temporary closure and temporary restriction order is specifically

tailored to the timeframe that is necessary to provide a safe environment for the public and for participants at the Burning Man event, and to protect public land resources while avoiding imposing restrictions that may not be necessary in the area during the remainder of the year.

The BLM will post information signs and maps about the temporary closure and temporary restrictions at main entry points around the playa, at the BLM Winnemucca District Office, and at the Black Rock Visitor Center.

Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733 (a)), 43 CFR 8360.0-7, and 43 CFR 8364.1, the BLM will enforce the following temporary closure and temporary restrictions within the public closure area:

I. Temporary Restrictions -- between August 13, 2012, and September 17, 2012 inclusive:

A. Aircraft Landing

The public closure area is closed to aircraft landing, taking off, and taxiing. Aircraft is defined in Title 18, U.S.C., section 31 (a)(1) and includes lighter-than-air craft and ultra-light craft. The following exceptions apply:

1. All aircraft operations, to include ultra-light and helicopter landings/take-offs, will occur at the designated event landing strip. The authorized event landing strip is a designated and Federal Aviation Administration approved public landing strip.
2. Only helicopters providing emergency medical services may land at the designated Emergency Medical Services helicopter pad or at other locations when required for medical incidents. The BLM authorizing

officer may approve other helicopter landings and take-offs when deemed necessary for the benefit of the law enforcement operation.

3. Landings or take-offs of lighter-than-air craft previously approved by the BLM authorized officer.

## B. Alcohol

1. Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion is prohibited.

2. Possession of alcohol by minors

a) The following are prohibited:

(1) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands.

(2) Selling, offering to sell, or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands.

3. Operation of a motor vehicle while under the influence

a) Title 43 CFR 8341.1(f)3 prohibits the operation of an off-road motor vehicle on public land while under the influence of alcohol, narcotics, or dangerous drugs.

b) In addition to the prohibition found in 43 CFR 8341.1(f)3, it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

- (1) The operator is under the combined influence of alcohol, a drug, or drugs to a degree that renders the operator incapable of safe operation of that vehicle; or
- (2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath.

c) Tests:

- (1) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this closure and restriction order, who has probable cause to believe that an operator of a motor vehicle has violated a provision of paragraph (a) or (b) of this section, the operator shall submit to one or more tests of the blood, breath, saliva, or urine for the purpose of determining blood alcohol and drug content.
- (2) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.
- (3) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized person.



(4) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

d) Presumptive levels

(1) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (a) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (b)(2) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(2) The provisions of paragraph (d)(1) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or multiple drugs, or any combination thereof.

4. Definitions:

a) Open container: Any bottle, can, or other container which contains an alcoholic beverage, if that container does not have a closed top or lid for which the seal has not been broken. If the

container has been opened one or more times, and the lid or top has been replaced, that container is an open container.

b) Possession of an open container includes any open container that is physically possessed by the driver or operator, or is adjacent to and reachable by that driver or operator. This includes but is not limited to containers in a cup holder or rack adjacent to the driver or operator, containers on a vehicle floor next to the driver or operator, and containers on a seat or console area next to a driver or operator.

#### C. Drug Paraphernalia

1. The possession of drug paraphernalia is prohibited.
2. Definition: Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of any state or Federal law, or regulation issued pursuant to law.

#### D. Disorderly Conduct

1. Disorderly conduct is prohibited.

2. Definition: Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy, or violence; or recklessly creating a risk thereof:

- a) Engages in fighting or violent behavior.
- b) Uses language, an utterance or gesture, or engages in a display or act that is physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.
- c) Obstructs, resists or attempts to elude a law enforcement officer, or fails to follow their orders or directions.

#### E. Eviction of Persons

1. The public closure area is closed to any person who:
  - a) Has been evicted from the event by the permit holder, Black Rock City LLC, (BRC LLC) whether or not the eviction was requested by the BLM.
  - b) Has been ordered by a BLM law enforcement officer to leave the area of the permitted event.
2. Any person evicted from the event forfeits all privileges to be present within the perimeter fence or anywhere else within the public closure area even if they possess a ticket to attend the event.

#### F. Fires

The ignition of fires on the surface of the Black Rock playa without a burn blanket or burn pan is prohibited.

#### G. Fireworks

The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by BRC LLC and used as part of a Burning Man sanctioned art burn event.

#### H. Motor Vehicles

1. The public closure area is closed to motor vehicle use, except as provided below.

Motor vehicles may be operated within the public closure area under these circumstances:

- a) Passage through, without stopping, the public closure area on the west or east playa roads;
- b) BLM, medical, law enforcement, and firefighting vehicles;
- c) Vehicles operated by BRC LLC staff or contractors and service providers on behalf of BRC LLC. During the event, from 6:00 p.m. Sunday, August 26, 2012, through 6:00 p.m. Monday, September 3, 2012, these vehicles must display evidence of event registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion.

Motor vehicles may be operated within the event area under these circumstances:

- a) Participant arrival and departure on designated routes;
- b) Vehicles operated by BRC LLC staff or contractors and service providers on behalf of BRC LLC. During the event, from 6:00

p.m. Sunday, August 26, 2012, through 6:00 p.m. Monday, September 3, 2012, these vehicles must display evidence of event registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

c) BLM, medical, law enforcement, and firefighting vehicles;

d) Mutant vehicles, art cars, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration. During the event, from 6:00

p.m. Sunday, August 26, 2012, through 6:00 p.m. Monday, September 3, 2012, such vehicles must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

e) Motorized skateboards, electric assist bicycles, or Go-Peds with or without handlebars

f) The operator of any motorized vehicle must possess a valid driver's license.

## 2. Definitions:

a) A motor vehicle is any device designed for and capable of travel over land and which is self-propelled by a motor, but does not include any vehicle operated on rails or any motorized wheelchair.

b) Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion.

I. Public Camping

The public closure areas is closed to public camping with the following exception: Burning Man event ticket holders who are camped in designated event areas provided by BRC LLC, and ticket holders who are camped in the authorized pilot camp. BRC LLC authorized staff, contractors, and BLM authorized event management related camps are exempt from this closure.

J. Public Use

The public closure area is closed to use by members of the public unless that person: Is traveling through, without stopping, the public closure area on the west or east playa roads; possesses a valid ticket to attend the event; is an employee or authorized volunteer with the BLM, a law enforcement agency, emergency medical service provider, fire protection provider, or another public agency working at the event and the employee is assigned to the event; is a person working at or attending the event on behalf of the event organizers, BRC LLC; or is authorized by BRC LLC to be onsite prior to the commencement of the event for the primary purpose of constructing, creating, designing or installing art, displays, buildings, facilities or other items and structures in connection with the event.

K. Waste Water Discharge

The dumping or discharge to the ground of gray water is prohibited. Gray water is water that has been used for cooking, washing, dishwashing, or bathing and contains soap, detergent, food scraps, or food residue.

L. Weapons

1. The possession of any weapon is prohibited except weapons within motor vehicles passing through the public closure area, without stopping, on the west or east playa roads.

2. The discharge of any weapon is prohibited.

3. The prohibitions above shall not apply to county, state, tribal, and Federal law enforcement personnel, or any person authorized by Federal law to possess a weapon. "Art projects" that include weapons and are sanctioned by BRC LLC will be permitted after obtaining authorization from the BLM authorized officer.

4. Definitions:

a) Weapon means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, hand-thrown spear, sling shot, irritant gas device, electric stunning or immobilization device, explosive device, any implement designed to expel a projectile, switch-blade knife, any blade which is greater than 10 inches in length from the tip of the blade to the edge of the hilt or finger guard nearest the blade (e.g., swords, dirks, daggers, machetes), or any other weapon the possession of which is prohibited by state law. Exception: The regulation does

not apply in a kitchen or cooking environment or where an event worker is wearing or utilizing a construction knife for their duties at the event.

b) Firearm means any pistol, revolver, rifle, shotgun, or other device which is designed to, or may be readily converted to expel a projectile by the ignition of a propellant.

c) Discharge means the expelling of a projectile from a weapon.



Any person who violates the above rules and restrictions may be tried before a United States Magistrate and fined no more than \$1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for at 18 U.S.C. 3571.

Gene Seidlitz  
District Manager, Winnemucca District

Authority: 43 CFR 8364.1

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